

Summary of Changes to City Code related to the City Auditor and Ethics Review Commission

Chapter 2-3 – City Auditor

- Adding definitions of fraud, waste, abuse, and personal benefit
- Adding a clause that investigative work will follow industry standards
- Clarifying that we manage an anonymous reporting system for wrongdoing and what that entails
- Clarifying the types of allegations that will be referred to the City Manager for resolution
- Adding reporting at least twice annually to the Council Audit and Finance Committee from the City Auditor and the City Manager regarding investigations of fraud, waste, or abuse
- Specifies process for reporting on substantiated investigations including:
 - Subject's right to representation
 - Subject and any involved party ability to review the draft report and provide a response to be included in the final report
- Defines separate processes for employees covered by a civil service system and City officials who are not covered by a civil service system:
 - City Auditor conducts the investigation and provides results to management for employees covered by a civil service system
 - Determination of a violation made by management for these employees
 - City Auditor conducts the investigation and provides the results to the Ethics Review Commission for certain employees not covered by a civil service system (this includes City executives and select Council appointees—City Clerk, Court Clerk, Commission members)
 - Determination of a violation made by the Ethics Review Commission for these employees
- *Proposals for handling allegations involving City Council and appointees/direct hires of the City Council:*
 - *Proposal A:
City Auditor refers any material allegations against City Council members, City Council staff, the City manager, or the City Auditor to the Ethics Review Commission for investigation (may utilize outside counsel to investigate) and final determination*
 - *Proposal B:
City Auditor hires outside expertise to investigate any material allegations against a City Council member, City Council staff, or the City Manager*

Chapter 2-7 – Ethics and Financial Disclosure

- Specifies process for handling complaints and referrals that the Ethics Review Commission receives from the City Auditor
- Updates timelines and responsibilities for sworn complaints
- Establishes a referral process from the Ethics Review Commission to the City Auditor

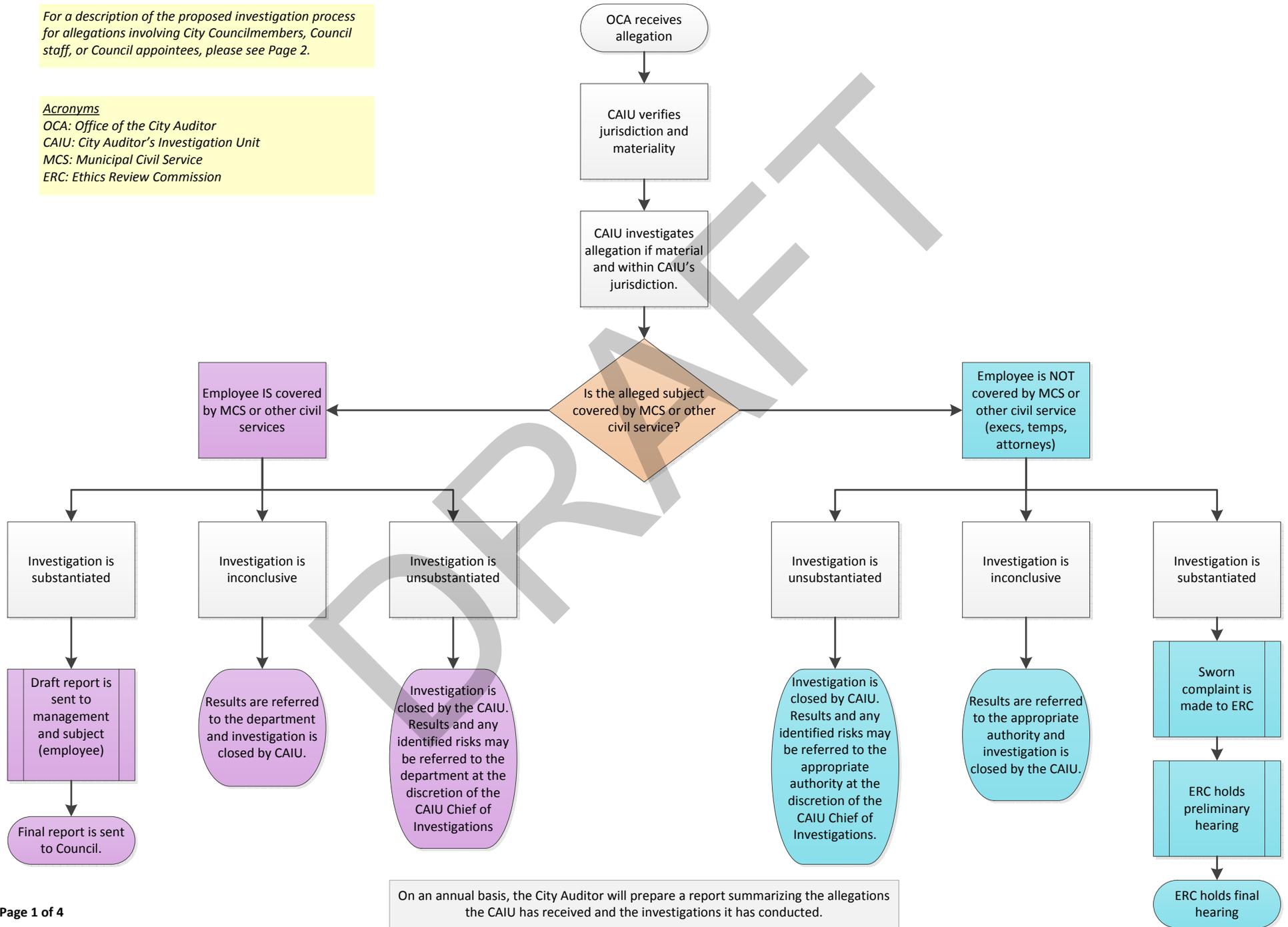
Revised Investigation Process for Ethics Complaints Involving City Employees (Excluding Council Staff and Council Appointees)

Per proposed revisions to Ch. 2-7 of the City Code (v. 9/18/2015)

For a description of the proposed investigation process for allegations involving City Councilmembers, Council staff, or Council appointees, please see Page 2.

Acronyms

OCA: Office of the City Auditor
 CAIU: City Auditor's Investigation Unit
 MCS: Municipal Civil Service
 ERC: Ethics Review Commission



On an annual basis, the City Auditor will prepare a report summarizing the allegations the CAIU has received and the investigations it has conducted.

Revised Investigation Process for Ethics Complaints Involving City Council, Council Office Staff and Council Appointees

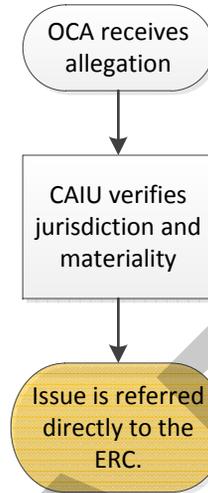
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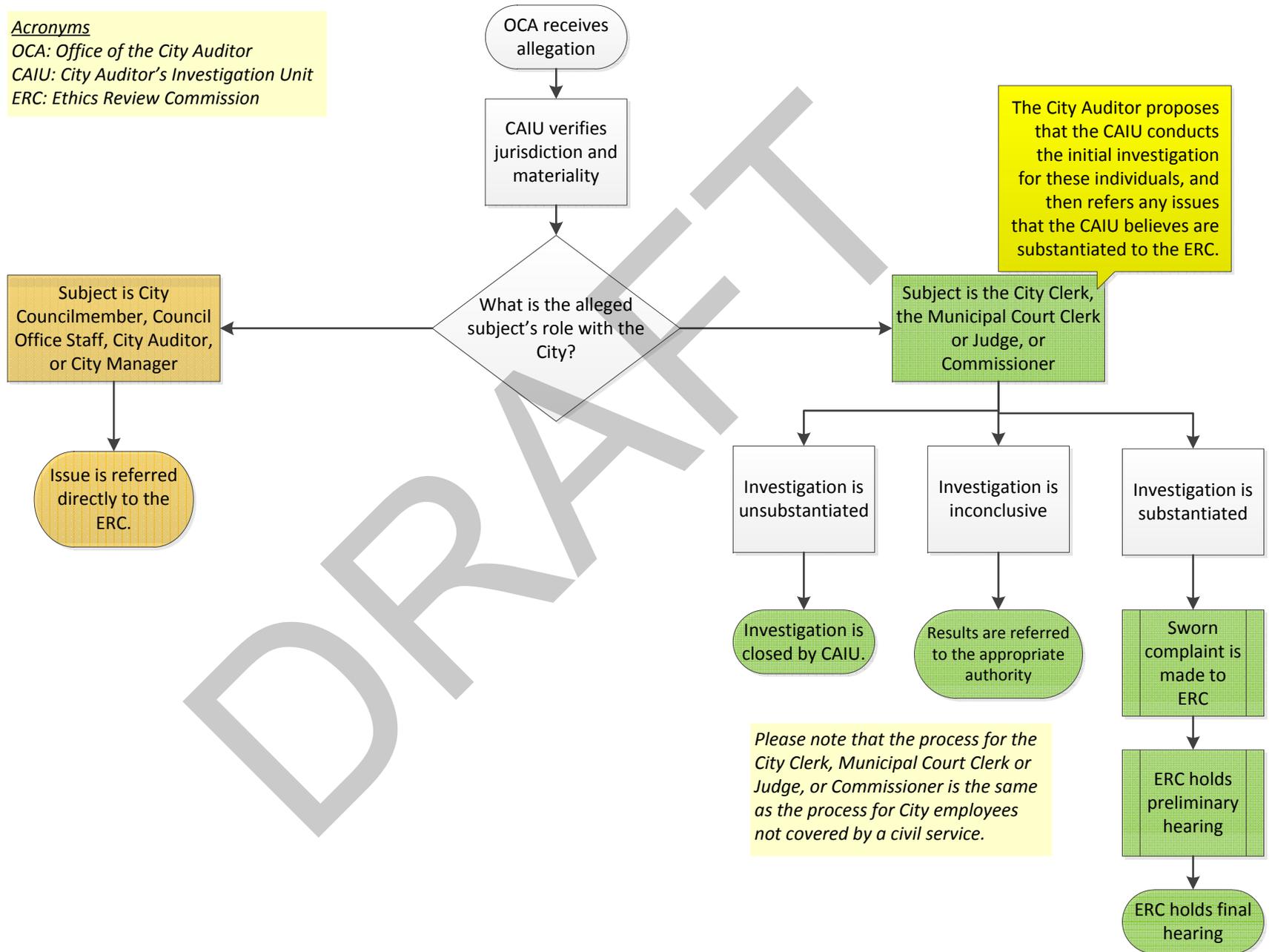
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On an annual basis, the City Auditor will prepare a report summarizing the allegations the CAIU has received and the investigations it has conducted.

Proposal A: Investigation Process for Alleged Violations of City Code Involving City Council, Council Office Staff and Council Appointees

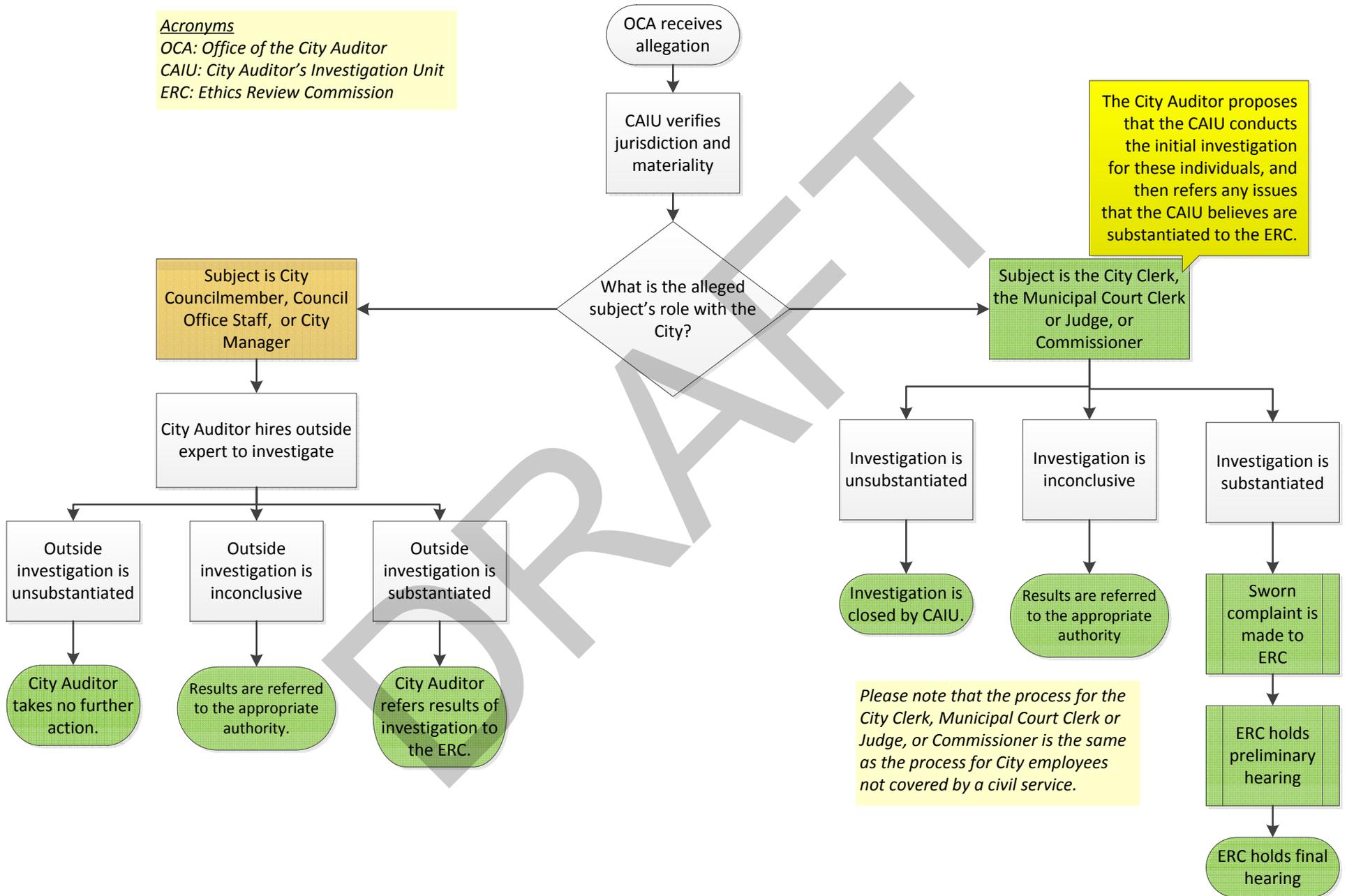
Acronyms
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On an annual basis, the City Auditor will prepare a report summarizing the allegations the CAIU has received and the investigations it has conducted.

Proposal B: Investigation Process for Alleged Violations of City Code Involving City Council, Council Office Staff and Council Appointees

Acronyms
 OCA: Office of the City Auditor
 CAIU: City Auditor's Investigation Unit
 ERC: Ethics Review Commission



The City Auditor proposes that the CAIU conducts the initial investigation for these individuals, and then refers any issues that the CAIU believes are substantiated to the ERC.

Please note that the process for the City Clerk, Municipal Court Clerk or Judge, or Commissioner is the same as the process for City employees not covered by a civil service.

On an annual basis, the City Auditor will prepare a report summarizing the allegations the CAIU has received and the investigations it has conducted.

1 **CHAPTER 2-3. - CITY AUDITOR.**

2 **§ 2-3-1 – DEFINITIONS.**

3 (1) ABUSE means the misuse of a City office, employment, contract, or other position
4 with the City to obtain personal gain or favor from another City employee, vendor,
5 or citizen.

6 (2) FRAUD includes, but is not limited to:

7 (a) the unauthorized taking of a City resource for personal gain by deception
8 including by forgery or by altering any document;

9 (b) the misappropriation of funds, supplies, or another City resource, through
10 methods including, but not limited to fraud, theft, embezzlement, and
11 misrepresentation;

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13 transactions;

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15 resources; or

16 (e) the misuse of official City information for personal benefit.

17 (3) WASTE means:

18 (a) the grossly inefficient or uneconomical use of City assets or resources; or

19 (b) the unnecessary incurring of costs to the City as a result of grossly inefficient
20 practices, systems, or controls.

21 (4) PERSONAL BENEFIT means:

22 (a) anything reasonably regarded as economic gain or advantage, including
23 benefit to any other person in whose welfare the beneficiary is interested.

24 **§ 2-3-2 - APPOINTMENT.**

25 (A) The office of the city auditor is created under Section 17 (City Auditor) of Article VII (Finance) of the Charter.
26 A majority of the council shall appoint a city auditor in accordance with the procedure established in Section 2-
27 3-3 (Selection Process; City Auditor Vacancy).

28 (B) The council may not appoint as city auditor a person who:

29 (1) has served as the City's mayor, a council member, or city manager within five years before the date of the
30 appointment; or

31 (2) is related, by affinity or consanguinity within the second degree, to the mayor, a council member, or the
32 city manager.

Proposal A: ERC Handles Council and Staff Investigations

33 (C) The council shall provide the city auditor with a discrete budget sufficient to perform the auditor's
34 responsibilities and duties under this chapter.

35 (D) A majority vote of the members of the council is required to remove the city auditor as provided by Section 17
36 (City Auditor) of Article VII (Finance) of the City Charter.

37 Source: 1992 Code Sections 2-8-1(A), and 2-8-2(A), (C), and (J); Ord. 031204-9; Ord. 031211-
38 11.

39 **§ 2-3-3 - SELECTION PROCESS; CITY AUDITOR VACANCY.**

40 (A) The council shall appoint a nominating committee to recommend candidates for city auditor. The committee
41 shall consist of five members, including:

42 (1) three council members appointed by the council;

43 (2) the state auditor; and

44 (3) the city manager.

45 (B) Not later than the 15th day after its members are appointed, the nominating committee shall hold its first
46 meeting to consider applicants for city auditor. The committee shall select a chair and vice chair by majority
47 vote.

48 (C) Not later than the 90th day after its first meeting, the nominating committee shall recommend to the council
49 three candidates selected by a majority of the committee members.

50 (D) Not later than the 15th day after the council receives the nominating committee's recommendation, the council
51 shall select a city auditor from the recommended candidates.

52 (E) If the city auditor's position is vacated, the auditor's first assistant shall serve as acting city auditor during the
53 vacancy.

54 Source: 1992 Code Section 2-8-8; Ord. 031204-9; Ord. 031211-11; [Ord. No. 20150129-026, Pt. 8, 2-9-](#)
55 [15](#).

56 **§ 2-3-4 - QUALIFICATIONS FOR CITY AUDITOR.**

57 The city auditor must:

58 (1) be knowledgeable in performance and financial auditing, public administration, and public financial and
59 fiscal practices;

60 (2) be licensed as a certified public accountant or certified internal auditor; and

61 (3) exercise due professional care in carrying out the auditor's duties, and ensure that due professional care is
62 employed to conduct an audit.

63 Source: 1992 Code Section 2-8-1(B); Ord. 031204-9; Ord. 031211-11.

64 **§ 2-3-5 - INDEPENDENCE, OBJECTIVITY, AND AUDIT STANDARDS.**

65 (A) The city auditor shall organize and administer the auditor's office to operate without interference or influence
66 that might adversely affect an independent and objective judgment of the auditor.

67 (B) The city auditor:

68 (1) shall organize the auditor's office as necessary to perform the auditor's responsibilities and duties under
69 this chapter;

Proposal A: ERC Handles Council and Staff Investigations

- 70 (2) may not be actively involved in partisan City political activity;
- 71 (3) may not conduct or supervise or allow an employee to conduct or supervise an audit of an activity for
- 72 which the person was responsible or in which the person was employed during the two years before the
- 73 date of the audit;
- 74 (4) shall adhere to government auditing standards established by the Comptroller General of the United
- 75 States to conduct the auditor's work and be independent as defined by the standards; and
- 76 (5) shall follow accepted industry standards to conduct the auditor's investigative work, such as the general
- 77 and qualitative standards under the "Quality Standards for Investigations" established by the Council of
- 78 the Inspectors General on Integrity and Efficiency; and
- 79 ~~(6)~~ is responsible for selection of an audit area and may consider requests from council and the city manager
- 80 in selecting an audit area.

81 Source: 1992 Code Section 2-8-2(B) and (D) through (G); Ord. 031204-9; Ord. 031211-11.

82 **§ 2-3-6 - POWERS AND DUTIES.**

- 83 (A) The city auditor shall examine City operations to identify an opportunity to reduce costs, increase efficiency,
- 84 quality, and effectiveness, or otherwise improve management of a City function, program, service, or policy.
- 85 The auditor shall manage a reporting system through which a City employee or a member of the public may
- 86 submit an allegation of wrongdoing. The person making an allegation need not provide the person's name. An
- 87 allegation may include:
- 88 (1) an allegation of fraud, waste or abuse;
- 89 (2) a violation of personnel policy; or
- 90 (3) a violation of law, including a violation of Chapter 2-7 (Ethics and Financial Disclosure)
- 91 (B) The city auditor shall communicate directly with the council audit committee and the council, attend council
- 92 audit and finance committee meetings, and regularly meet with council.
- 93 (C) The city auditor shall establish audit policies and procedures consistent with government auditing standards
- 94 established by the Comptroller General of the United States, and applicable law and regulation.
- 95 (D) The city auditor may conduct a performance or financial-related audit, investigation, and other audit work to
- 96 determine if:
- 97 (1) a current City function, program, service, or policy:
- 98 (a) is authorized by the council or other legal authority; and
- 99 (b) is conducted to accomplish its intended objective;
- 100 (2) a function, program, service, or policy is effective in achieving its stated or intended result or benefit,
- 101 including the level of effectiveness;
- 102 (3) an audited function, program, service, or policy effectively, economically, and efficiently acquires,
- 103 protects, and uses its resources, including personnel, property, and space;
- 104 (4) a function, program, service, or policy complies with a mandate regarding efficiency, economy,
- 105 effectiveness, or expenditure of public funds adopted by council or other legal authority;
- 106 (5) management for a function, program, service, or policy has adopted an administrative and accounting
- 107 control system to effectively, economically, and efficiently carry on the function or program; and
- 108 (6) a function, program, service, or policy is providing financial and performance reports that accurately,
- 109 fully, and fairly disclose all information required by law or other criteria necessary to:
- 110 (a) ascertain the nature and scope of the function, program, service, or policy; and
- 111 (b) establish a proper basis for evaluating the results of the function, program, service, or policy.

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- 112 (E) When required or implied by audit objectives, the auditor shall determine the cause of an inefficient,
113 uneconomical, or ineffective function, program, service, or policy.
- 114 (F) The city auditor may conduct follow-up review determined to be necessary by the city auditor to verify a report
115 or plan from the city manager in response to an audit recommendation. The city auditor shall review a follow-
116 up report or plan from the city manager in response to an audit recommendation.
- 117 (G) If the city auditor determines that a city employee or official may have violated the law, or may be reasonably
118 anticipated to commit a violation, the auditor shall:
- 119 (1) consult with and obtain advice from the city attorney;
- 120 (2) ~~promptly immediately~~ report the suspected violation to the appropriate authority; and
- 121 (3) if the suspected violation is criminal, notify the appropriate chief prosecuting authority.
- 122 (H) The city auditor may hire a certified or registered public accountant, qualified management consultant, or other
123 professional expert necessary to perform the auditor's duties, in compliance with the City's procurement
124 requirements.
- 125 (I) ~~Notwithstanding any other provision of the City Code, the auditor may not investigate or make any~~
126 ~~determination concerning an allegation alleging a violation of City Code Chapter 2-7, Article 4 (Code of~~
127 ~~Ethics), by a member of the city council, a member of a council member's direct staff, the city manager, the city~~
128 ~~clerk or the city auditor. the clerk of the municipal court, a municipal court judge, or a person appointed by the~~
129 ~~mayor or the city council to a City board, task force, or similar body. The auditor shall verify the jurisdiction~~
130 ~~and materiality of the allegation, and then submit any material allegation to the Ethics Review Commission,~~
131 ~~which shall conduct an investigation and make the final determination on the allegation.~~
- 132 (J) If the auditor conducts an investigation of an allegation alleging a violation of Chapter 2-7, Article 4 (Code of
133 Ethics) by the city clerk, the clerk of the municipal court, a municipal court judge, a person appointed by the
134 mayor or the city council to a City board, task force or similar body, or by a City employee who is not either a
135 member of the classified municipal civil service system or of a state civil service system the auditor shall submit
136 the results of any substantiated investigation to the Ethics Review Commission, which shall make the final
137 determination on the allegation. ~~The auditor shall not make a determination on the allegation.~~
- 138 (K) The auditor may conduct an investigation of an allegation alleging a violation of law or policy by a City
139 employee who is a member of the classified municipal civil service system or of a state civil service system. If
140 the auditor conducts an investigation of an employee covered by a civil service system, the investigation must
141 be done in a way that is consistent with the law and any applicable labor agreement. If the auditor obtains
142 evidence that indicates that a violation has occurred, the auditor shall provide a copy of the result of an
143 investigation under this section to the city manager or other appropriate party. The city manager or appropriate
144 party may conduct a separate investigation. The city manager or appropriate party has the authority to determine
145 that a violation has occurred and the appropriate disciplinary action.
- 146 (L) A person who is the subject of an investigation by the auditor may bring to any interview with the auditor a
147 representative or advisor of the person's choice. ~~Before the auditor issues a final report on the investigation, the~~
148 auditor must provide the person with an opportunity to respond in writing to any allegation made against the
149 person.
- 150 (M) For each investigation in which the auditor obtains evidence that indicates that a violation has occurred, the
151 auditor shall prepare a draft investigative report and deliver the draft report to the person who is the subject of
152 the investigation and any person or entity mentioned or referenced as being involved in the alleged
153 inappropriate conduct. The person who is the subject of the investigation and any person or entity mentioned or
154 referenced as being involved in the alleged inappropriate conduct may submit a written response to the draft
155 report within 20 working days after receiving the report. The auditor shall deliver a copy of the final report,
156 including any response submitted, to the appropriate authority, the person who is the subject of the
157 investigation, any person or entity mentioned or referenced as being involved in the alleged inappropriate
158 conduct, the council, and the city manager. The auditor shall retain a copy of the report in the auditor's office
159 for the applicable retention period under the City's records management program.

160 (N) The city auditor shall refer an allegation enumerated in this subsection to the city manager. The city manager
161 shall design a process to inform the city auditor of the disposition of the referred allegations for recordkeeping
162 purposes. The allegations covered by this subsection are those related to:

- 163 (1) A personnel issue;
164 (2) An operational issue;
165 (3) A de minimus fraud, waste or abuse violation;
166 (4) A public safety issue that is not related to fraud, waste or abuse; and
167 (5) An issue that the auditor is not authorized to investigate, and that is not within the jurisdiction of the Ethics
168 Review Commission.

169 (O) City employees and officials shall cooperate with auditor investigations.

170 (P) The city manager shall produce a quarterly report on the status of investigations regarding fraud, waste, and
171 abuse conducted by the city manager at least twice annually to the Council Audit and Finance Committee.

172 Source: 1992 Code Sections 2-8-1(B)(3), 2-8-3(B), and 2-8-6; Ord. 031204-9; Ord. 031211-11.

173 **§ 2-3-7 - EMPLOYEES.**

- 174 (A) Except the city auditor and an assistant otherwise designated by the city auditor, an appointee or employee of
175 the city auditor's office is in the City's classified personnel service.
- 176 (B) The city auditor has the authority to appoint, employ, and terminate an assistant or other personnel as necessary
177 to operate the city auditor's office, independently of the direction of the city manager or the council, subject to
178 the budget approval process and personnel policy established by the council for each City department.
- 179 (C) The city manager or council may not direct the city auditor to appoint, employ, or terminate an assistant city
180 auditor or other auditor's office personnel, subject to the City's grievance procedure.

181 Source: 1992 Code Sections 2-8-2(H) and (I); Ord. 031204-9; Ord. 031211-11.

182 **§ 2-3-8 - ANNUAL AUDIT PLAN AND SPECIAL AUDITS.**

- 183 (A) Not later than the 30th day before the beginning of a calendar year, the city auditor shall submit an annual audit
184 plan to the council for review and comment through the council audit and finance committee.
- 185 (B) An annual audit plan under this section shall identify the scope of each audit the city auditor intends to
186 conduct, including:
- 187 (1) the department, organization, service, program, function, and policy to be audited; and
188 (2) each potential audit objective to be addressed.
- 189 (C) If the city auditor notifies the council audit and finance committee and obtains comments from the committee,
190 an annual audit plan may be amended by the city auditor. The city auditor may request an amendment
191 independently, or at the request of the council audit and finance committee or the city manager.
- 192 (D) The city auditor may initiate, conduct, or expand the scope of an audit or investigation if the auditor determines
193 that fraud, waste, abuse, or illegality may have occurred or is occurring, or if an audit finding requires
194 expansion of the scope of the audit or of an investigation in progress. The auditor shall notify the council audit
195 and finance committee of an action under this section, if the auditor determines that:
- 196 (1) fraud, abuse, or illegality may have or is occurring; or

Proposal A: ERC Handles Council and Staff Investigations

- 197 | ~~(2) an audit finding requires expansion of the scope of an audit or investigation in progress; and~~
198 | ~~(3) notify the council audit and finance committee of action take under this section.~~
199 | (E) The city auditor shall distribute the results of a special audit in accordance with Section 2-3-9 (Report
200 | Preparation and Release).

201 | Source: 1992 Code Section 2-8-2(G)(1) through (3); Ord. 031204-9; Ord. 031211-11.

202 | **§ 2-3-9 - REPORT PREPARATION AND RELEASE.**

- 203 | (A) The city auditor shall prepare a draft audit report for each audit and deliver the report to the city manager.
204 | (B) The city manager shall send the city auditor written comment on the reported audit findings and a written
205 | response to each recommendation on or before a date agreed to by the city manager and the city auditor. The
206 | city manager's response shall:
207 | (1) state whether the city manager agrees or disagrees with each recommendation;
208 | (2) include the reason for a disagreement; and
209 | (3) describe the action, if any, that will occur in response to a recommendation.
210 | (C) If the city manager's response is timely delivered to the city auditor, the city auditor shall include a copy of the
211 | response in the city auditor's final report.
212 | (D) The city auditor shall file a final audit report with the council and the city manager, and retain a copy in the
213 | city auditor's office as a permanent record.
214 | (E) An audit report prepared under this section shall adhere to the reporting standards for financial-related and
215 | performance audits prescribed by government audit standards.
216 | (F) If appropriate, the city auditor may issue other advisory reports to provide information to the city manager and
217 | council.
218 | (G) The auditor shall prepare a summary of the reporting program's activities at least twice annually for
219 | presentation to the council audit and finance committee.

220 | Source: 1992 Code Section 2-8-5; Ord. 031204-9; Ord. 031211-11.

221 | **§ 2-3-10 - COUNCIL AUDIT AND FINANCE COMMITTEE.**

- 222 | (A) The council audit and finance committee shall assist the council in oversight of and responsibility for the City's
223 | financial and performance reporting practices, internal controls, compliance with applicable law and
224 | regulation, and initiatives to improve service.
225 | (B) The committee shall:
226 | (1) review and make a recommendation to the full council regarding the city auditor's annual audit plan;
227 | (2) monitor the city auditor's audit results and follow-up activity;
228 | (3) monitor the City's internal controls through external audits and the city auditor's audits and other activity;
229 | (4) provide reasonable assurance to the council that the City is in compliance with applicable law and
230 | regulation, is conducting its affairs ethically, and is maintaining effective internal controls against a
231 | conflict of interest or fraud;
232 | (5) meet with the director of the Finance and Administrative Services Department on financial questions and
233 | to review:
234 | (a) the City's financial reports, including a comparison between actual financial performance and the
235 | approved budget;

Proposal A: ERC Handles Council and Staff Investigations

- 236 (b) the City's fiscal policy, internal control policy, investment policy, debt management policy, and
237 other financial management policies; and
- 238 (c) the status of the capital improvement program and related projects;
- 239 (6) recommend to the full council an external auditor to conduct the City's annual financial audit; and
- 240 (7) meet with the external auditor approved by the council as necessary, and review financial statements,
241 auditors' opinion, and management letters resulting from the City's annual financial audit.

242 Source: 1992 Code Section 2-8-3; Ord. 031204-9; Ord. 031211-11; Ord. 20060824-060; Ord.
243 20090806-032; [Ord. No. 20150129-026, Pt. 5, 2-9-15](#).

244 **§ 2-3-11 - PEER REVIEW.**

- 245 (A) The city auditor is subject to peer review not less than once every three years by a professional, non-partisan,
246 objective person or group, including an auditor or other professional with appropriate government auditing
247 expertise and experience.
- 248 (B) Peer review shall determine compliance by the city auditor with government auditing standards and the quality
249 of the auditor's audit effort and reporting, including:
- 250 (1) general standards, including staff qualifications, due professional care, and quality assurance;
- 251 (2) fieldwork standards, including planning, supervision, and audit evidence; and
- 252 (3) reporting standards, including report content, presentation, and timeliness.
- 253 (C) After the council audit and finance committee has reviewed and approved the written peer review report, the
254 committee shall provide a copy of the written peer review report to each member of the council.
- 255 (D) The city auditor shall pay the cost of the peer review, including reasonable travel and living expenses, from the
256 city auditor's budget.

257 Source: 1992 Code Section 2-8-7; Ord. 031204-9; Ord. 031211-11.

258 **§ 2-3-12 - ACCESS TO RECORDS AND PROPERTY.**

- 259 (A) Each City officer and employee shall provide the city auditor with free and open access to and furnish copies
260 of information in any medium, including a record, book, account, internal or external memorandum, tape,
261 report, file, diskette, computer data, money, fund, or other information.
- 262 (B) Each City officer and employee shall provide the city auditor with free and open access to property, equipment,
263 facilities, and operations for inspection or observation by the auditor.

264 Source: 1992 Code Section 2-8-4; Ord. 031204-9; Ord. 031211-11.

265 ~~§ 2-3-13 - REQUEST FOR LEGAL SERVICES.~~

1 **CHAPTER 2-3. - CITY AUDITOR.**

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4 with the City to obtain personal gain or favor from another City employee, vendor,
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25 (A) The office of the city auditor is created under Section 17 (City Auditor) of Article VII (Finance) of the Charter.
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30 appointment; or

31 (2) is related, by affinity or consanguinity within the second degree, to the mayor, a council member, or the
32 city manager.

Proposal B: Auditor Utilizes Outside Investigator for Council

33 (C) The council shall provide the city auditor with a discrete budget sufficient to perform the auditor's
34 responsibilities and duties under this chapter.

35 (D) A majority vote of the members of the council is required to remove the city auditor as provided by Section 17
36 (City Auditor) of Article VII (Finance) of the City Charter.

37 Source: 1992 Code Sections 2-8-1(A), and 2-8-2(A), (C), and (J); Ord. 031204-9; Ord. 031211-
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39 **§ 2-3-3 - SELECTION PROCESS; CITY AUDITOR VACANCY.**

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43 (2) the state auditor; and

44 (3) the city manager.

45 (B) Not later than the 15th day after its members are appointed, the nominating committee shall hold its first
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47 vote.

48 (C) Not later than the 90th day after its first meeting, the nominating committee shall recommend to the council
49 three candidates selected by a majority of the committee members.

50 (D) Not later than the 15th day after the council receives the nominating committee's recommendation, the council
51 shall select a city auditor from the recommended candidates.

52 (E) If the city auditor's position is vacated, the auditor's first assistant shall serve as acting city auditor during the
53 vacancy.

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56 **§ 2-3-4 - QUALIFICATIONS FOR CITY AUDITOR.**

57 The city auditor must:

58 (1) be knowledgeable in performance and financial auditing, public administration, and public financial and
59 fiscal practices;

60 (2) be licensed as a certified public accountant or certified internal auditor; and

61 (3) exercise due professional care in carrying out the auditor's duties, and ensure that due professional care is
62 employed to conduct an audit.

63 Source: 1992 Code Section 2-8-1(B); Ord. 031204-9; Ord. 031211-11.

64 **§ 2-3-5 - INDEPENDENCE, OBJECTIVITY, AND AUDIT STANDARDS.**

65 (A) The city auditor shall organize and administer the auditor's office to operate without interference or influence
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67 (B) The city auditor:

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69 this chapter;

Proposal B: Auditor Utilizes Outside Investigator for Council

- 70 (2) may not be actively involved in partisan City political activity;
- 71 (3) may not conduct or supervise or allow an employee to conduct or supervise an audit of an activity for
- 72 which the person was responsible or in which the person was employed during the two years before the
- 73 date of the audit;
- 74 (4) shall adhere to government auditing standards established by the Comptroller General of the United
- 75 States to conduct the auditor's work and be independent as defined by the standards; and
- 76 (5) shall follow accepted industry standards to conduct the auditor's investigative work, such as the general
- 77 and qualitative standards under the "Quality Standards for Investigations" established by the Council of
- 78 the Inspectors General on Integrity and Efficiency; and
- 79 (6) is responsible for selection of an audit area and may consider requests from council and the city manager
- 80 in selecting an audit area.

81 Source: 1992 Code Section 2-8-2(B) and (D) through (G); Ord. 031204-9; Ord. 031211-11.

82 **§ 2-3-6 - POWERS AND DUTIES.**

- 83 (A) The city auditor shall examine City operations to identify an opportunity to reduce costs, increase efficiency,
- 84 quality, and effectiveness, or otherwise improve management of a City function, program, service, or policy.
- 85 The auditor shall manage a reporting system through which a City employee or a member of the public may
- 86 submit an allegation of wrongdoing. The person making an allegation need not provide the person's name. An
- 87 allegation may include:
- 88 (1) an allegation of fraud, waste or abuse;
- 89 (2) a violation of personnel policy; or
- 90 (3) a violation of law, including a violation of Chapter 2-7 (Ethics and Financial Disclosure)
- 91 (B) The city auditor shall communicate directly with the council audit committee and the council, attend council
- 92 audit and finance committee meetings, and regularly meet with council.
- 93 (C) The city auditor shall establish audit policies and procedures consistent with government auditing standards
- 94 established by the Comptroller General of the United States, and applicable law and regulation.
- 95 (D) The city auditor may conduct a performance or financial-related audit, investigation, and other audit work to
- 96 determine if:
- 97 (1) a current City function, program, service, or policy:
- 98 (a) is authorized by the council or other legal authority; and
- 99 (b) is conducted to accomplish its intended objective;
- 100 (2) a function, program, service, or policy is effective in achieving its stated or intended result or benefit,
- 101 including the level of effectiveness;
- 102 (3) an audited function, program, service, or policy effectively, economically, and efficiently acquires,
- 103 protects, and uses its resources, including personnel, property, and space;
- 104 (4) a function, program, service, or policy complies with a mandate regarding efficiency, economy,
- 105 effectiveness, or expenditure of public funds adopted by council or other legal authority;
- 106 (5) management for a function, program, service, or policy has adopted an administrative and accounting
- 107 control system to effectively, economically, and efficiently carry on the function or program; and
- 108 (6) a function, program, service, or policy is providing financial and performance reports that accurately,
- 109 fully, and fairly disclose all information required by law or other criteria necessary to:
- 110 (a) ascertain the nature and scope of the function, program, service, or policy; and

Proposal B: Auditor Utilizes Outside Investigator for Council

- 111 (b) establish a proper basis for evaluating the results of the function, program, service, or policy.
- 112 (E) When required or implied by audit objectives, the auditor shall determine the cause of an inefficient,
113 uneconomical, or ineffective function, program, service, or policy.
- 114 (F) The city auditor may conduct follow-up review determined to be necessary by the city auditor to verify a report
115 or plan from the city manager in response to an audit recommendation. The city auditor shall review a follow-
116 up report or plan from the city manager in response to an audit recommendation.
- 117 (G) If the city auditor determines that a city employee or official may have violated the law, or may be reasonably
118 anticipated to commit a violation, the auditor shall:
- 119 (1) consult with and obtain advice from the city attorney;
- 120 (2) ~~promptly~~ immediately report the suspected violation to the appropriate authority; and
- 121 (3) if the suspected violation is criminal, notify the appropriate chief prosecuting authority.
- 122 (H) The city auditor may hire a certified or registered public accountant, qualified management consultant, or other
123 professional expert necessary to perform the auditor's duties, in compliance with the City's procurement
124 requirements.
- 125 (I) Notwithstanding any other provision of the City Code, the auditor shall hire an external party to investigate any
126 material allegation alleging a violation of City Code by a member of the city council, a member of a council
127 member's direct staff, or the city manager. The auditor shall submit the results of any substantiated external
128 investigation to the Ethics Review Commission, which shall make the final determination on the allegation.
- 129 (J) If the auditor conducts an investigation of an allegation alleging a violation of Chapter 2-7, Article 4 (Code of
130 Ethics) by the city clerk, the clerk of the municipal court, a municipal court judge, a person appointed by the
131 mayor or the city council to a City board, task force or similar body, or by a City employee who is not either a
132 member of the classified municipal civil service system or of a state civil service system, the auditor shall
133 submit the results of any substantiated investigation to the Ethics Review Commission, which shall make the
134 final determination on the allegation. ~~The auditor shall not make a determination on the allegation.~~
- 135 (K) The auditor may conduct an investigation of an allegation alleging a violation of law or policy by a City
136 employee who is a member of the classified municipal civil service system or of a state civil service system. If
137 the auditor conducts an investigation of an employee covered by a civil service system, the investigation must
138 be done in a way that is consistent with the law and any applicable labor agreement. If the auditor obtains
139 evidence that indicates that a violation has occurred, the auditor shall provide a copy of the result of an
140 investigation under this section to the city manager or other appropriate party. The city manager or appropriate
141 party may conduct a separate investigation. The city manager or appropriate party has the authority to determine
142 that a violation has occurred and the appropriate disciplinary action.
- 143 (L) A person who is the subject of an investigation by the auditor may bring to any interview with the auditor a
144 representative or advisor of the person's choice. ~~Before the auditor issues a final report on the investigation, the~~
145 ~~auditor must provide the person with an opportunity to respond in writing to any allegation made against the~~
146 ~~person.~~
- 147 (M) For each investigation in which the auditor obtains evidence that indicates that a violation has occurred, the
148 auditor shall prepare a draft investigative report and deliver the draft report to the person who is the subject of
149 the investigation and any person or entity mentioned or referenced as being involved in the alleged
150 inappropriate conduct. The person who is the subject of the investigation and any person or entity mentioned or
151 referenced as being involved in the alleged inappropriate conduct may submit a written response to the draft
152 report within 20 working days after receiving the report. The auditor shall deliver a copy of the final report,
153 including any response submitted, to the appropriate authority, the person who is the subject of the
154 investigation, any person or entity mentioned or referenced as being involved in the alleged inappropriate
155 conduct, the council, and the city manager. The auditor shall retain a copy of the report in the auditor's office
156 for the applicable retention period under the City's records management program.

Proposal B: Auditor Utilizes Outside Investigator for Council

157 (N) The city auditor shall refer an allegation enumerated in this subsection to the city manager. The city manager
158 shall design a process to inform the city auditor of the disposition of the referred allegations for recordkeeping
159 purposes. The allegations covered by this subsection are those related to:

160 (1) A personnel issue;

161 (2) An operational issue;

162 (3) A de minimus fraud, waste or abuse violation;

163 (4) A public safety issue that is not related to fraud, waste or abuse; and

164 (5) An issue that the auditor is not authorized to investigate, and that is not within the jurisdiction of the Ethics
165 Review Commission.

166 (O) City employees and officials shall cooperate with auditor investigations.

167 (P) The city manager shall produce a quarterly report on the status of investigations regarding fraud, waste, and
168 abuse conducted by the city manager at least twice annually to the Council Audit and Finance Committee.

169 Source: 1992 Code Sections 2-8-1(B)(3), 2-8-3(B), and 2-8-6; Ord. 031204-9; Ord. 031211-11.

170 **§ 2-3-7 - EMPLOYEES.**

171 (A) Except the city auditor and an assistant otherwise designated by the city auditor, an appointee or employee of
172 the city auditor's office is in the City's classified personnel service.

173 (B) The city auditor has the authority to appoint, employ, and terminate an assistant or other personnel as necessary
174 to operate the city auditor's office, independently of the direction of the city manager or the council, subject to
175 the budget approval process and personnel policy established by the council for each City department.

176 (C) The city manager or council may not direct the city auditor to appoint, employ, or terminate an assistant city
177 auditor or other auditor's office personnel, subject to the City's grievance procedure.

178 Source: 1992 Code Sections 2-8-2(H) and (I); Ord. 031204-9; Ord. 031211-11.

179 **§ 2-3-8 - ANNUAL AUDIT PLAN AND SPECIAL AUDITS.**

180 (A) Not later than the 30th day before the beginning of a calendar year, the city auditor shall submit an annual audit
181 plan to the council for review and comment through the council audit and finance committee.

182 (B) An annual audit plan under this section shall identify the scope of each audit the city auditor intends to
183 conduct, including:

184 (1) the department, organization, service, program, function, and policy to be audited; and

185 (2) each potential audit objective to be addressed.

186 (C) If the city auditor notifies the council audit and finance committee and obtains comments from the committee,
187 an annual audit plan may be amended by the city auditor. The city auditor may request an amendment
188 independently, or at the request of the council audit and finance committee or the city manager.

189 (D) The city auditor may initiate, conduct, or expand the scope of an audit or investigation if the auditor determines
190 that fraud, waste, abuse, or illegality may have occurred or is occurring, or if an audit finding requires
191 expansion of the scope of the audit or of an investigation in progress. The auditor shall notify the council audit
192 and finance committee of an action under this section, if the auditor determines that:

Proposal B: Auditor Utilizes Outside Investigator for Council

- 193 | ~~(1) fraud, abuse, or illegality may have or is occurring; or~~
194 | ~~(2) an audit finding requires expansion of the scope of an audit or investigation in progress; and~~
195 | ~~(3) notify the council audit and finance committee of action take under this section.~~
196 | (E) The city auditor shall distribute the results of a special audit in accordance with Section 2-3-9 (Report
197 | Preparation and Release).

198 Source: 1992 Code Section 2-8-2(G)(1) through (3); Ord. 031204-9; Ord. 031211-11.

199 **§ 2-3-9 - REPORT PREPARATION AND RELEASE.**

- 200 (A) The city auditor shall prepare a draft audit report for each audit and deliver the report to the city manager.
201 (B) The city manager shall send the city auditor written comment on the reported audit findings and a written
202 response to each recommendation on or before a date agreed to by the city manager and the city auditor. The
203 city manager's response shall:
204 (1) state whether the city manager agrees or disagrees with each recommendation;
205 (2) include the reason for a disagreement; and
206 (3) describe the action, if any, that will occur in response to a recommendation.
207 (C) If the city manager's response is timely delivered to the city auditor, the city auditor shall include a copy of the
208 response in the city auditor's final report.
209 (D) The city auditor shall file a final audit report with the council and the city manager, and retain a copy in the
210 city auditor's office as a permanent record.
211 (E) An audit report prepared under this section shall adhere to the reporting standards for financial-related and
212 performance audits prescribed by government audit standards.
213 (F) If appropriate, the city auditor may issue other advisory reports to provide information to the city manager and
214 council.
215 (G) The auditor shall prepare a summary of the reporting program's activities at least twice annually for
216 presentation to the council audit and finance committee.

217 Source: 1992 Code Section 2-8-5; Ord. 031204-9; Ord. 031211-11.

218 **§ 2-3-10 - COUNCIL AUDIT AND FINANCE COMMITTEE.**

- 219 (A) The council audit and finance committee shall assist the council in oversight of and responsibility for the City's
220 financial and performance reporting practices, internal controls, compliance with applicable law and
221 regulation, and initiatives to improve service.
222 (B) The committee shall:
223 (1) review and make a recommendation to the full council regarding the city auditor's annual audit plan;
224 (2) monitor the city auditor's audit results and follow-up activity;
225 (3) monitor the City's internal controls through external audits and the city auditor's audits and other activity;
226 (4) provide reasonable assurance to the council that the City is in compliance with applicable law and
227 regulation, is conducting its affairs ethically, and is maintaining effective internal controls against a
228 conflict of interest or fraud;
229 (5) meet with the director of the Finance and Administrative Services Department on financial questions and
230 to review:

Proposal B: Auditor Utilizes Outside Investigator for Council

- 231 (a) the City's financial reports, including a comparison between actual financial performance and the
232 approved budget;
- 233 (b) the City's fiscal policy, internal control policy, investment policy, debt management policy, and
234 other financial management policies; and
- 235 (c) the status of the capital improvement program and related projects;
- 236 (6) recommend to the full council an external auditor to conduct the City's annual financial audit; and
- 237 (7) meet with the external auditor approved by the council as necessary, and review financial statements,
238 auditors' opinion, and management letters resulting from the City's annual financial audit.

239 Source: 1992 Code Section 2-8-3; Ord. 031204-9; Ord. 031211-11; Ord. 20060824-060; Ord.
240 20090806-032; [Ord. No. 20150129-026, Pt. 5, 2-9-15.](#)

241 **§ 2-3-11 - PEER REVIEW.**

- 242 (A) The city auditor is subject to peer review not less than once every three years by a professional, non-partisan,
243 objective person or group, including an auditor or other professional with appropriate government auditing
244 expertise and experience.
- 245 (B) Peer review shall determine compliance by the city auditor with government auditing standards and the quality
246 of the auditor's audit effort and reporting, including:
- 247 (1) general standards, including staff qualifications, due professional care, and quality assurance;
- 248 (2) fieldwork standards, including planning, supervision, and audit evidence; and
- 249 (3) reporting standards, including report content, presentation, and timeliness.
- 250 (C) After the council audit and finance committee has reviewed and approved the written peer review report, the
251 committee shall provide a copy of the written peer review report to each member of the council.
- 252 (D) The city auditor shall pay the cost of the peer review, including reasonable travel and living expenses, from the
253 city auditor's budget.

254 Source: 1992 Code Section 2-8-7; Ord. 031204-9; Ord. 031211-11.

255 **§ 2-3-12 - ACCESS TO RECORDS AND PROPERTY.**

- 256 (A) Each City officer and employee shall provide the city auditor with free and open access to and furnish copies
257 of information in any medium, including a record, book, account, internal or external memorandum, tape,
258 report, file, diskette, computer data, money, fund, or other information.
- 259 (B) Each City officer and employee shall provide the city auditor with free and open access to property, equipment,
260 facilities, and operations for inspection or observation by the auditor.

261 Source: 1992 Code Section 2-8-4; Ord. 031204-9; Ord. 031211-11.

262 ~~§ 2-3-13 - REQUEST FOR LEGAL SERVICES.~~